

**THE DISTRICT OF COLUMBIA  
ALCOHOLIC BEVERAGE CONTROL BOARD**

<b>In the Matter of:</b>	)	
TBM Holdings LLC, t/a Driftwood Kitchen	)	Case No.: 16-PRO-00076
Applicant for Renewal of a Retailer's Class CR License	)	License No.: ABRA-086210
at premises	)	Order No.: 2016-636
400 H St., N.E.	)	
Washington, D.C. 20002	)	

TBM Holdings LLC, t/a Driftwood Kitchen

Andrew Shulman, Designated Representative, Group of Five or More

**BEFORE:** Donovan Anderson, Chairperson  
Nick Alberti, Member  
Mike Silverstein, Member  
James Short, Member  
Mafara Hobson, Member  
Jake Perry, Member

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**ORDER DISMISSING THE GROUP OF FIVE OR MORE'S PROTEST  
PETITION**

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The Application by TBM Holdings LLC, t/a Driftwood Kitchen (Applicant), for renewal of its Retailer's Class CR License, having been protested by the Group of Five or More (Group), came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on July 11, 2016, in accordance with D.C. Official Code § 25-431 and 23 DCMR § 1603. Only two members of the Group attended the Roll Call Hearing. At that time, the Board's Agent granted the Group conditional standing and advised them that three additional members of the Group needed to attend the Protest Status Hearing in order for the Board to grant the Group permanent standing. *See Transcript at 7 (Tran.)*.

Subsection 1605.1 of 23 DCMR provides:

A protestant group of five or more residents or property owners of the District sharing common ground . . . will be granted standing once five or more individuals of the group have appeared at either the roll call hearing or at the protest status hearing.

Notwithstanding § 1603.2, at least five individuals of the Group of Five or More Individuals must appear in person at either the roll call hearing or the protest status hearing.

In other words, between the Roll Call Hearing and the Protest Status Hearing, at least five members of a group of five or more must appear before the Board in order to be granted standing. The Board's Agent can confer conditional standing if fewer than five members of the group attend the Roll Call Hearing, but permanent standing will not be granted unless the Board determines that between the two hearings, at least five members of the group appeared before it.

In the present case, the Board's Agent informed the Group that they were being granted conditional standing but that three additional members of the Group needed to attend the Protest Status Hearing. The Official Hearing Notice (Notice) that was sent to the Applicant and the Designated Representative for the Group informed them that the Board would render decisions regarding any outstanding matters, including the determination of standing upon a group of five or more where not all of the requisite number of persons attended the Roll Call Hearing. *ABRA Protest File 16-PRO-00076, Official Hearing Notice.*<sup>1</sup>

On November 2, 2016, the Parties appeared before the Board for a Protest Status Hearing. Mr. Shulman, as the Designated Representative, appeared on behalf of the Group along with two other members of the Group. Three additional members of the Group needed to attend the Protest Status Hearing in order for the Board to grant it standing. Mr. Shulman requested that the Board to continue the hearing for one week to allow the Group to bring an additional person. The Licensee objected. The Board unanimously denied the motion.

Due to the Group failing to have at least five members at the Roll Call Hearing or the Protest Status Hearing, the Board dismisses the Protestant's Protest Petition.

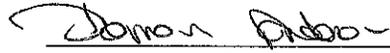
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<sup>1</sup> During the Status Hearing, the Board will render decisions regarding any outstanding issues related to the Roll Call Hearing. For example, if during the Roll Call Hearing, a group of five (5) or more individuals (or a group of three (3) individuals for a moratorium zone) was granted "conditional standing" because the requisite number of individuals from the group was not present, the Board will determine if the appropriate number of individuals are present for the Status Hearing in order to maintain standing as a protestant group. If the requisite number of individuals is not present, the Board may dismiss the protest.

## **ORDER**

Therefore, the Board, on this 9<sup>th</sup> day of November 2016, **DISMISSES** the Group of Five or More's Protest Petition. Copies of this Order shall be sent to the Applicant and Group of Five or More.

District of Columbia  
Alcoholic Beverage Control Board

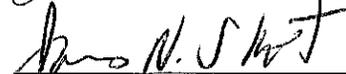


Donovan Anderson, Chairperson

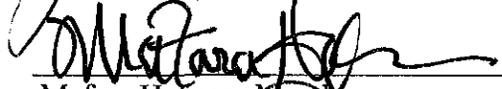
Nick Alberti, Member



Mike Silverstein, Member



James Short, Member



Mafara Hobson, Member



Jake Perry, Member



Pursuant to D.C. Official Code § 25-433(d)(1), any party adversely affected may file a Motion for Reconsideration of this decision within ten (10) days of service of this Order with the Alcoholic Beverage Regulation Administration, 2000 14<sup>th</sup> Street, N.W., Suite 400S, Washington, DC 20009.

Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, D.C. Official Code §2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 430 E Street, N.W., Washington, D.C. 20001; (202/879-1010). However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR §1719.1 (2008) stays the time for filing a petition for review in the District of Columbia Court of Appeals until the Board rules on the motion. See D.C. App. Rule 15(b) (2004).